

REMARKS

By the forgoing amendment, applicant has made grammatical changes to claims 1 and 8 and cancelled claim 12. Accordingly claims 1, 2, 5, 7-8 and 10-11 remain pending.

Initially applicants do not understand the previous rejection of claims 1, 2, 5, 7-8 and 10-12 under 35 USC 112, allegedly as being indefinite. Although the Examiner correctly notes that the use of the term “optionally” renders a limitation readable on any wheels, applicant notes that the Examiner also rejected claim 12, dependent on claim 1, which positively required that there be at least two caster wheels. Thus, it is not understood why the Examiner rejected these claims under 35 USC 112, second paragraph.

However to avoid this rejection and reduce any issues for appeal, the applicant has deleted the term “optionally” in claim 1 and cancelled claim 12. Accordingly, the claims should now comply with the requirements of 35 USC 112, second paragraph. Applicant has made two additional corrections to the claims, i.e. in claim 1 the word “distance”, erroneously cancelled together with the other term that was intended to be cancelled in the previous amendment, has been reinstated and the word “intended” has been changed to “configured” (two occurrences) so as to additionally avoid any section 112 issues. The spelling of “caster” in claim 8 has been amended to conform to the spelling in claim 1. Accordingly, none of the foregoing amendments raise issues under 35 USC 112, second paragraph nor new issues in the present application.

Reconsideration of the previous rejection of claims 1,2,5, 7, 8, and 10-11 under 35 USC 103 as unpatenable over Uitz (US Patent 5,865,315) in view of Broadley (WO00/51898) and Dickinson (US Patent 5,564,805) is respectfully requested. The claims specifically require a carrying structure having an upper surface where the upper surface “is provided with receiving means to receive the wheels of a second transportation means stacked on top of a first transportation means so that a number of such transportation means may be stacked...one on top of the other”. In addition Applicant’s claims also require a plurality of containers stretched on the first transporter means and a lid “wherein the lid is provided with receiving means...to receive the wheels of a second transportation means of a

second transporter stack stacked on top of the first transporter means so that a plurality of such transport assemblies may be stacked one on top of the other, an upper surface of the lid being provided with two parallel narrow long side channels with the lid stretching from one short side of the lid to the other, the long side channels of the lid being arranged at a distance from each other which is mainly equal to the distance between the wheels, as seen from a short side, wherein transportation means may be arranged on top of the lid by rolling it into engagement with the lid...”.

The Uitz reference thoroughly fails to show any interaction between the wheels and the upper surface of the carrying structure. It also fails to disclose a lid. While Broadley (assigned to the same assignee as the instant application) shows a carrying structure (or dolly as it is normally called) the problem with stacking dollies is the wheels, a problem that is close to non-existent with pallets of the wheelless type of Uitz. Moreover, applicants have also provided a lid on top of a stack of containers with a certain functionality which will make it possible to stack dollies on top of containers with the specifically recited lid.

Although the Examiner urges (page 4 of the office action) that “it would have been obvious to one of the ordinary skill in the art at the time the instant invention was made to combine the transportation of means Broadley material transportation system of Uitz in order to provide ease of movements of the system of Uitz in both a loaded and unloaded configuration”, as previously noted, Uitz utterly fails to show any interaction between wheels and an upper surface of a carrying structure and also fails to disclose a lid having the claimed configuration.

While Broadley does show a carrying structure provided with wheels, Broadley does not disclose a lid with the claimed structure which will make it possible to stack a second carrying structure(dollies) on tops of containers with the specific lid. This is apparently also recognized by the Examiner at page 4 of the final rejection in which it is stated “Uitz and Broadley do not disclose the use of channels in a lid meant to engage wheels in a carrying structure”.

Thus the Examiner attempts to combine Dickinson with Uitz and Broadley to establish a *prima facie* case of obviousness for the claimed invention.

However, Dickinson only shows a lid having four discrete depressions (best shown but un-numbered in figures 1 and 3 of Dickinson) to receive one each of simple axle mounted wheels. Thus the proposed combination of Uitz and Broadley and Dickinson still would not provide a lid which in the lid has the claimed structure i.e. "the upper surface of the lid being provided with two parallel narrow long side channels of the lid stretching from one short side of the lid to the other, the long side channel of the lid being arranged at a distance from each of other which is mainly equal to the distance between the wheels, as seen from a short side". Thus, even with the combination of three references the Examiner still has failed to establish a *prima facie* case of obviousness for the claimed invention, and thus, it is respectfully requested that the Examiner withdraw the previous rejections and pass the application to issue.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 14-1437, under Order No. 8722.009.US0000

Date: January 2, 2009

Respectfully submitted,



Thomas P. Pavelko
Registration No. 31,689
NOVAK DRUCE & QUIGG LLP
1300 Eye Street, NW
1000 West Tower
Washington, DC 20005
Telephone: (202) 659-0100
Facsimile: (202) 659-0105